

ASSEMBLY BILL

No. 1559

Introduced by Assembly Member Wiggins

February 26, 1999

An act to amend Section 214 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1559, as introduced, Wiggins. Property tax welfare exemption: low- and moderate-income housing.

Existing property tax law establishes a welfare exemption under which property is exempt from taxation if, among other things, that property is used exclusively for religious, hospital, scientific, or charitable purposes and is owned and operated by an entity, as provided, that is itself organized and operated for those purposes. Existing law prohibits this exemption from applying to property used exclusively for housing and related facilities for elderly or handicapped families, if either supplemental care or services designed to meet the special needs of elderly or handicapped residents are not provided or the property is not financed by the federal government pursuant to certain provisions of federal law. Existing law instead allows, with respect to any property so prohibited from receiving a welfare exemption, a partial welfare exemption in accordance with that proportion of the property that consists of low and moderate-income housing.

This bill would clarify these prohibition and partial exemption provisions.

This bill would make legislative findings and declarations that the changes made by this bill do not constitute a change in, but are declaratory of, existing law.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 214 of the Revenue and Taxation
2 Code is amended to read:

3 214. (a) Property used exclusively for religious,
4 hospital, scientific, or charitable purposes owned and
5 operated by community chests, funds, foundations or
6 corporations organized and operated for religious,
7 hospital, scientific, or charitable purposes is exempt from
8 taxation, including ad valorem taxes to pay the interest
9 and redemption charges on any indebtedness approved
10 by the voters prior to July 1, 1978, or any bonded
11 indebtedness for the acquisition or improvement of real
12 property approved on or after July 1, 1978, by two-thirds
13 of the votes cast by the voters voting on the proposition,
14 if:

15 (1) The owner is not organized or operated for profit.
16 However, in the case of hospitals, the organization shall
17 not be deemed to be organized or operated for profit if,
18 during the immediately preceding fiscal year, operating
19 revenues, exclusive of gifts, endowments and
20 grants-in-aid, did not exceed operating expenses by an
21 amount equivalent to 10 percent of those operating
22 expenses. As used herein, operating expenses include
23 depreciation based on cost of replacement and
24 amortization of, and interest on, indebtedness.

25 (2) No part of the net earnings of the owner inures to
26 the benefit of any private shareholder or individual.

27 (3) The property is used for the actual operation of the
28 exempt activity, and does not exceed an amount of
29 property reasonably necessary to the accomplishment of
30 the exempt purpose.

31 (A) For the purposes of determining whether the
32 property is used for the actual operation of the exempt

1 activity, consideration shall not be given to use of the
2 property for either or both of the following described
3 activities if that use is occasional:

4 (i) The owner conducts fundraising activities on the
5 property and the proceeds derived from those activities
6 are not unrelated business taxable income, as defined in
7 Section 512 of the Internal Revenue Code, of the owner
8 and are used to further the exempt activity of the owner.

9 (ii) The owner permits any other organization that
10 meets all of the requirements of this subdivision, other
11 than ownership of the property, to conduct fundraising
12 activities on the property and the proceeds derived from
13 those activities are not unrelated business taxable
14 income, as defined in Section 512 of the Internal Revenue
15 Code, of the organization, are not subject to the tax on
16 unrelated business taxable income that is imposed by
17 Section 511 of the Internal Revenue Code, and are used
18 to further the exempt activity of the organization.

19 (B) For purposes of subparagraph (A):

20 (i) "Occasional use" means use of the property on an
21 irregular or intermittent basis by the qualifying owner or
22 any other qualifying organization described in clause (ii)
23 of subparagraph (A) that is incidental to the primary
24 activities of the owner or the other organization.

25 (ii) "Fundraising activities" means both activities
26 involving the direct solicitation of money or other
27 property and the anticipated exchange of goods or
28 services for money between the soliciting organization
29 and the organization or person solicited.

30 (C) Subparagraph (A) shall have no application in
31 determining whether paragraph (3) has been satisfied
32 unless the owner of the property and any other
33 organization using the property as provided in
34 subparagraph (A) have filed with the assessor duplicate
35 copies of valid unrevoked letters or rulings from the
36 Internal Revenue Service that state that the owner and
37 the other organization qualify as exempt organizations
38 under Section 501(c)(3) of the Internal Revenue Code.
39 The owner of the property and any other organization
40 using the property as provided in subparagraph (A) also

1 shall file duplicate copies of their most recently filed
2 federal income tax returns.

3 (D) For the purposes of determining whether the
4 property is used for the actual operation of the exempt
5 activity, consideration shall not be given to the use of the
6 property for meetings conducted by any other
7 organization if the meetings are incidental to the other
8 organization's primary activities, are not fundraising
9 meetings or activities as defined in subparagraph (B), are
10 held no more than once per week, and the other
11 organization and its use of the property meet all other
12 requirements of paragraphs (1) to (5), inclusive, of
13 subdivision (a). The owner or the other organization also
14 shall file with the assessor duplicate copies of valid,
15 unrevoked letters or rulings from the Internal Revenue
16 Service or the Franchise Tax Board stating that the other
17 organization, or the national organization of which it is a
18 local chapter or affiliate, qualifies as an exempt
19 organization under Section 501(c)(3) or Section
20 501(c)(4) of the Internal Revenue Code or Section
21 23701d, 23701f, or 23701w, together with duplicate copies
22 of that organization's most recently filed federal income
23 tax return, if the organization is required by federal law
24 to file a return.

25 Nothing in subparagraph (A), (B), (C), or (D) shall be
26 construed to either enlarge or restrict the exemption
27 provided for in subdivision (b) of Section 4 and Section
28 5 of Article XIII of the California Constitution and this
29 section.

30 (4) The property is not used or operated by the owner
31 or by any other person so as to benefit any officer, trustee,
32 director, shareholder, member, employee, contributor,
33 or bondholder of the owner or operator, or any other
34 person, through the distribution of profits, payment of
35 excessive charges or compensations, or the more
36 advantageous pursuit of their business or profession.

37 (5) The property is not used by the owner or members
38 thereof for fraternal or lodge purposes, or for social club
39 purposes except where that use is clearly incidental to a



1 primary religious, hospital, scientific, or charitable
2 purpose.

3 (6) The property is irrevocably dedicated to religious,
4 charitable, scientific, or hospital purposes and upon the
5 liquidation, dissolution or abandonment of the owner will
6 not inure to the benefit of any private person except a
7 fund, foundation, or corporation organized and operated
8 for religious, hospital, scientific, or charitable purposes.

9 (7) The property, if used exclusively for scientific
10 purposes, is used by a foundation or institution that, in
11 addition to complying with the foregoing requirements
12 for the exemption of charitable organizations in general,
13 has been chartered by the Congress of the United States
14 (except that this requirement shall not apply when the
15 scientific purposes are medical research), and whose
16 objects are the encouragement or conduct of scientific
17 investigation, research, and discovery for the benefit of
18 the community at large.

19 The exemption provided for herein shall be known as
20 the “welfare exemption.” This exemption shall be in
21 addition to any other exemption now provided by law,
22 and the existence of the exemption provision in
23 paragraph (2) of subdivision (a) of Section 202 shall not
24 preclude the exemption under this section for museum or
25 library property. Except as provided in subdivision (e),
26 this section shall not be construed to enlarge the college
27 exemption.

28 (b) Property used exclusively for school purposes of
29 less than collegiate grade and owned and operated by
30 religious, hospital, or charitable funds, foundations, or
31 corporations, which property and funds, foundations, or
32 corporations meet all of the requirements of subdivision
33 (a), shall be deemed to be within the exemption provided
34 for in subdivision (b) of Section 4 and Section 5 of Article
35 XIII of the California Constitution and this section.

36 (c) Property used exclusively for nursery school
37 purposes and owned and operated by religious, hospital,
38 or charitable funds, foundations, or corporations, which
39 property and funds, foundations, or corporations meet all
40 the requirements of subdivision (a), shall be deemed to

1 be within the exemption provided for in subdivision (b)
2 of Section 4 and Section 5 of Article XIII of the California
3 Constitution and this section.

4 (d) Property used exclusively for a noncommercial
5 educational FM broadcast station or an educational
6 television station, and owned and operated by religious,
7 hospital, scientific, or charitable funds, foundations, or
8 corporations meeting all of the requirements of
9 subdivision (a), shall be deemed to be within the
10 exemption provided for in subdivision (b) of Section 4
11 and Section 5 of Article XIII of the California Constitution
12 and this section.

13 (e) Property used exclusively for religious, charitable,
14 scientific, or hospital purposes and owned and operated
15 by religious, hospital, scientific, or charitable funds,
16 foundations, or corporations or educational institutions of
17 collegiate grade, as defined in Section 203, which
18 property and funds, foundations, corporations, or
19 educational institutions meet all of the requirements of
20 subdivision (a), shall be deemed to be within the
21 exemption provided for in subdivision (b) of Section 4
22 and Section 5 of Article XIII of the California Constitution
23 and this section. As to educational institutions of
24 collegiate grade, as defined in Section 203, the
25 requirements of paragraph (6) of subdivision (a) shall be
26 deemed to be met if both of the following are met:

27 (1) The property of the educational institution is
28 irrevocably dedicated in its articles of incorporation to
29 charitable and educational purposes, to religious and
30 educational purposes, or to educational purposes.

31 (2) The articles of incorporation of the educational
32 institution provide for distribution of its property upon its
33 liquidation, dissolution, or abandonment to a fund,
34 foundation, or corporation organized and operated for
35 religious, hospital, scientific, charitable, or educational
36 purposes meeting the requirements for exemption
37 provided by Section 203 or this section.

38 (f) (1) Property used exclusively for housing and
39 related facilities for elderly or handicapped families and
40 financed by, including, but not limited to, the federal

government pursuant to Section 202 of Public Law 86-372 (12 U.S.C. Sec. 1701q), as amended, Section 231 of Public Law 73-479 (12 U.S.C. Sec. 1715v), Section 236 of Public Law 90-448 (12 U.S.C. Sec. 1715z), or Section 811 of Public Law 101-625 (42 U.S.C. Sec. 8013), and owned and operated by religious, hospital, scientific, or charitable funds, foundations, or corporations meeting all of the requirements of this section shall be deemed to be within the exemption provided for in subdivision (b) of Section 4 and Section 5 of Article XIII of the California Constitution and this section.

The amendment of this paragraph made by Chapter 1102 of the Statutes of 1984 does not constitute a change in, but is declaratory of, the existing law. However, no refund of property taxes shall be required as a result of this amendment for any fiscal year prior to the fiscal year in which the amendment takes effect.

Property

(2) *Property* used exclusively for housing and related facilities for elderly or handicapped families ~~at which supplemental care or services designed to meet the special needs of elderly or handicapped residents are not provided, or that is not financed by the federal government pursuant to Section 202 of Public Law 86-372 (12 U.S.C. Sec. 1701q), as amended, Section 231 of Public Law 73-479 (12 U.S.C. Sec. 1715v), Section 236 of Public Law 90-448 (12 U.S.C. Sec. 1715z), or Section 811 of Public Law 101-625 (42 U.S.C. Sec. 8013), shall not be entitled to exemption pursuant to this subdivision unless the property is used for housing and related facilities for low- and moderate-income elderly or handicapped families. Property that would otherwise be exempt pursuant to this subdivision, except that it includes some housing and related facilities for other than low- or moderate-income elderly or handicapped families, shall not be eligible for a full exemption if that property fails to comply with either of the following:~~

(A) *Supplemental care or services designed to meet the special needs of elderly or handicapped residents are provided at the housing and related facilities.*

1 (B) *The property is financed by the federal*
2 *government pursuant to Section 202 of Public Law 86-372*
3 *(12 U.S.C. Sec. 1701q), as amended, Section 231 of Public*
4 *Law 73-479 (12 U.S.C. Sec. 1715v), Section 236 of Public*
5 *Law 90-448 (12 U.S.C. Sec. 1715z), or Section 811 of Public*
6 *Law 101-625 (42 U.S.C. Sec. 8013).*

7 *Any property used exclusively for housing and related*
8 *facilities for elderly or handicapped families that would*
9 *qualify for full exemption but for its failure to comply with*
10 *either of these conditions shall instead be entitled to a*
11 *partial exemption. The partial exemption shall be equal*
12 *to that percentage of the value of the property that is*
13 *equal to the percentage that the number of low- and*
14 *moderate-income elderly and handicapped families*
15 *occupying the property represents of the total number of*
16 *families occupying the property.*

17 As used in this subdivision, “low and moderate income”
18 has the same meaning as the term “persons and families
19 of low or moderate income” as defined by Section 50093
20 of the Health and Safety Code.

21 (g) (1) Property used exclusively for rental housing
22 and related facilities and owned and operated by
23 religious, hospital, scientific, or charitable funds,
24 foundations, or corporations, including limited
25 partnerships in which the managing general partner is an
26 eligible nonprofit corporation, meeting all of the
27 requirements of this section, or by veterans’
28 organizations, as described in Section 215.1, meeting all
29 the requirements of paragraphs (1) to (7), inclusive, of
30 subdivision (a), shall be deemed to be within the
31 exemption provided for in subdivision (b) of Section 4
32 and Section 5 of Article XIII of the California Constitution
33 and this section and shall be entitled to a partial
34 exemption equal to that percentage of the value of the
35 property that the portion of the property serving lower
36 income households represents of the total property in any
37 year in which any of the following criteria are applicable:

38 (A) Twenty percent or more of the occupants of the
39 property are lower income households whose rent does

1 not exceed that prescribed by Section 50053 of the Health
2 and Safety Code.

3 (B) The acquisition, rehabilitation, development, or
4 operation of the property, or any combination of these
5 factors, is financed with tax-exempt mortgage revenue
6 bonds or general obligation bonds, or is financed by local,
7 state, or federal loans or grants and the rents of the
8 occupants who are lower income households do not
9 exceed those prescribed by deed restrictions or
10 regulatory agreements pursuant to the terms of the
11 financing or financial assistance.

12 (C) The owner of the property is eligible for and
13 receives low-income housing tax credits pursuant to
14 Section 42 of the Internal Revenue Code of 1986, as added
15 by Public Law 99-514.

16 (2) In order to be eligible for the exemption provided
17 by this subdivision, the owner of the property shall do
18 both of the following:

19 (A) Certify and ensure that there is a deed restriction,
20 agreement, or other legal document that restricts the
21 project's usage and that provides that the units
22 designated for use by lower income households are
23 continuously available to or occupied by lower income
24 households at rents that do not exceed those prescribed
25 by Section 50053 of the Health and Safety Code, or, to the
26 extent that the terms of federal, state, or local financing
27 or financial assistance conflicts with Section 50053, rents
28 that do not exceed those prescribed by the terms of the
29 financing or financial assistance.

30 (B) Certify that the funds that would have been
31 necessary to pay property taxes are used to maintain the
32 affordability of, or reduce rents otherwise necessary for,
33 the units occupied by lower income households.

34 (3) As used in this subdivision, "lower income
35 households" has the same meaning as the term "lower
36 income households" as defined by Section 50079.5 of the
37 Health and Safety Code.

38 (h) Property used exclusively for an emergency or
39 temporary shelter and related facilities for homeless
40 persons and families and owned and operated by

1 religious, hospital, scientific, or charitable funds,
2 foundations, or corporations meeting all of the
3 requirements of this section shall be deemed to be within
4 the exemption provided for in subdivision (b) of Section
5 4 and Section 5 of Article XIII of the California
6 Constitution and this section. Property that otherwise
7 would be exempt pursuant to this subdivision, except that
8 it includes housing and related facilities for other than an
9 emergency or temporary shelter, shall be entitled to a
10 partial exemption.

11 As used in this subdivision, “emergency or temporary
12 shelter” means a facility that would be eligible for funding
13 pursuant to Chapter 11 (commencing with Section
14 50800) of Part 2 of Division 31 of the Health and Safety
15 Code.

16 (i) Property used exclusively for housing and related
17 facilities for employees of religious, charitable, scientific,
18 or hospital organizations that meet all the requirements
19 of subdivision (a) and owned and operated by funds,
20 foundations, or corporations that meet all the
21 requirements of subdivision (a) shall be deemed to be
22 within the exemption provided for in subdivision (b) of
23 Sections 4 and 5 of Article XIII of the California
24 Constitution and this section to the extent the residential
25 use of the property is institutionally necessary for the
26 operation of the organization.

27 (j) For purposes of this section, charitable purposes
28 include educational purposes. For purposes of this
29 subdivision, “educational purposes” means those
30 educational purposes and activities for the benefit of the
31 community as a whole or an unascertainable and
32 indefinite portion thereof, and shall not include those
33 educational purposes and activities that are primarily for
34 the benefit of an organization’s shareholders. Educational
35 activities include the study of relevant information, the
36 dissemination of that information to interested members
37 of the general public, and the participation of interested
38 members of the general public.



1 SEC. 2. The amendment of Section 214 of the
2 Revenue and Taxation Code made by this act does not
3 constitute a change in, but is declaratory of, existing law.

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